

APPEAL NO. 022899  
FILED JANUARY 6, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 14, 2002. The hearing officer determined that the date of the compensable repetitive trauma injury was (alleged injury), that the respondent (claimant) notified her employer on January 30, 2002, and that she did not have good cause for untimely reporting, but that the appellant (carrier) did not have newly discovered evidence as a basis for reopening the issue of compensability. The carrier appealed the date of injury, pointing out that the (alleged injury), date was premised on a typographical error in that the date of the claimant's first medical treatment for the condition was \_\_\_\_\_. The carrier further appealed the determination on the lack of newly discovered evidence, arguing that it exercised diligence in adjusting the claim.

DECISION

We affirm the hearing officer's decision on newly discovered evidence, but reverse and render a date of injury of \_\_\_\_\_.

The contended injury was carpal tunnel syndrome (CTS). The claimant testified (and medical records in evidence verify) that she had initial treatment for complaints of hand pain and numbness on \_\_\_\_\_; recommended testing was not performed, however, and the claimant said she did not have medical treatment again until January 30, 2002, when she reported work-related CTS to her employer and was referred to a doctor for the employer. The doctor she saw on \_\_\_\_\_ was Dr. E, who was located in the office of Dr. HG

An investigator hired by the adjuster said his notes reflected that the carrier received written notice of injury on February 26, 2002. However, he was not hired to investigate medical records or locate the claimant until March 20. Part of his assignment was to obtain medical records of "[Dr. PG]." The investigator was notified by the adjuster that she had taken the claimant's recorded statement on April 8, 2002. The investigator met with the claimant on April 17, 2002, when it was clarified to him that Dr. PG was never involved with the treatment. The investigator testified that he received a signed medical authorization from the claimant on that date but records were not received from the office of Dr. HG or Dr. E until early June 2002. In the meantime, the carrier did not dispute or accept liability for the claim.

Because the hearing officer's discussion ties her finding of the date of injury to the first time that claimant saw Dr. E, and she says that the date was "(alleged injury)," we agree that an inadvertent error in the date was likely made by the hearing officer. We therefore reverse the determination that the date of injury was (alleged injury), and render a decision that the date of injury was \_\_\_\_\_.

Concerning the determination that there was no newly discovered evidence, we agree that the hearing officer did not err. In her transcribed statement, the claimant indicated that she was first treated for her CTS in December 2001, and she gave the office location of her doctor. While she did not recall the exact date, the carrier would already have been able to ascertain when the injury was reported to the employer. This was enough to assert the untimely reporting defense eventually raised in the carrier's Payment of Compensation or Notice of Refused/Disputed Claim (TWCC-21), without the necessity of waiting for copies of medical records. Accordingly, we affirm the hearing officer's decision on this issue.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6TH STREET  
AUSTIN, TEXAS 78701**

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Susan M. Kelley  
Appeals Judge

CONCUR:

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Daniel R. Barry  
Appeals Judge

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Chris Cowan  
Appeals Judge